

AMENDED IN ASSEMBLY MAY 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2644**

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**Introduced by Assembly Member Nazarian**

February 21, 2014

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An act to amend Sections 114276, 118500, and 118505 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2644, as amended, Nazarian. Toilet facilities.

Existing law, the California Retail Food Code, sets forth uniform health and sanitation standards for retail food facilities. Local health agencies are primarily responsible for enforcing this code. These provisions are also enforced by the State Department of Public Health, except as specified. Among other things, the code sets forth standards for toilet facilities located in permanent food facilities. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

Existing law also requires every public agency that conducts an establishment serving the public or open to the public and that maintains in that establishment restroom facilities for the public, to make every water closet, or restroom, for each sex maintained within the facilities available without cost or charge to the patrons, guests, or invitees of the establishment. Existing law generally requires publicly and privately owned facilities, including sports and entertainment arenas, stadiums, community and convention halls, and specialty event centers, where the public congregates to be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

This bill would require each toilet stall in (1) toilet facilities located in permanent food facilities and provided for use by consumers, guests, and invitees, (2) restroom facilities maintained by a public agency in an establishment that serves or is open to the public, and (3) temporary or permanent restroom facilities in publicly and privately owned facilities where the public congregates to contain a waste receptacle, *unless the addition of a waste receptacle would result in noncompliance with a local, state, or federal law relating to access for persons with disabilities, as determined by the local health officer.* By imposing new duties on local health agencies and by revising the definition of a crime, the bill would impose a state-mandated local program.

The bill would also make technical changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 114276 of the Health and Safety Code
- 2 is amended to read:
- 3 114276. (a) A permanent food facility shall provide clean
- 4 toilet facilities in good repair for use by employees.
- 5 (b) (1) A permanent food facility shall provide clean toilet
- 6 facilities in good repair for consumers, guests, or invitees when
- 7 there is onsite consumption of foods or when the food facility was
- 8 constructed after July 1, 1984, and has more than 20,000 square
- 9 feet of floor space.
- 10 (2) Notwithstanding Section 113984.1, toilet facilities that are
- 11 provided for use by consumers, guests, or invitees shall be in a
- 12 location where consumers, guests, and invitees do not pass through
- 13 food preparation, food storage, or utensil washing areas to reach
- 14 the toilet facilities. Each toilet stall provided for use by consumers,

1 guests, or invitees shall contain a waste ~~receptacle~~. *receptacle*,  
2 *unless the addition of a waste receptacle in the toilet stall would*  
3 *result in noncompliance with a local, state, or federal law relating*  
4 *to access for persons with disabilities, as determined by the local*  
5 *health officer.*

6 (3) For purposes of this section, a building subject to paragraph  
7 (1) that has a food facility with more than 20,000 square feet of  
8 floor space shall provide at least one separate toilet facility for  
9 men and one separate toilet facility for women.

10 (4) For purposes of this section, the gas pump area of a service  
11 station that is maintained in conjunction with a food facility shall  
12 not be considered as property used in connection with the food  
13 facility or be considered in determining the square footage of floor  
14 space of the food facility.

15 (c) (1) Toilet rooms shall be separated by well-fitted,  
16 self-closing doors that prevent the passage of flies, dust, or odors.

17 (2) Toilet room doors shall be kept closed except during cleaning  
18 and maintenance operations.

19 (d) Handwashing facilities, in good repair, shall be provided as  
20 specified in Sections 113953 and 113953.3.

21 (e) A city, county, or city and county may enact ordinances that  
22 are more restrictive than this section.

23 (f) (1) Except as provided in paragraph (1) of subdivision (b),  
24 a building that is constructed before January 1, 2004, that has a  
25 food facility that provides space for the consumption of food on  
26 the premises shall either provide clean toilet facilities in good  
27 repair for consumers, guests, or invitees on property used in  
28 connection with, or in, the food facility or prominently post a sign  
29 within the food facility in a public area stating that toilet facilities  
30 are not provided.

31 (2) The first violation of paragraph (1) shall result in a warning.  
32 Subsequent violations shall constitute an infraction punishable by  
33 a fine of not more than two hundred fifty dollars (\$250).

34 (3) The requirements of this section for toilet facilities that are  
35 accessible to consumers, guests, or invitees on the property may  
36 be satisfied by permitting access by those persons to the toilet and  
37 handwashing facilities that are required by this part.

38 SEC. 2. Section 118500 of the Health and Safety Code is  
39 amended to read:

1 118500. Every public agency that conducts an establishment  
2 serving the public or open to the public, and that maintains therein  
3 restroom facilities for the public, shall make every restroom for  
4 each sex maintained within the facilities available without cost or  
5 charge to the patrons, guests, or invitees of the establishment and  
6 each toilet stall shall contain a waste ~~receptacle~~. *receptacle, unless*  
7 *the addition of a waste receptacle in the toilet stall would result*  
8 *in noncompliance with a local, state, or federal law relating to*  
9 *access for persons with disabilities, as determined by the local*  
10 *health officer.* “Public agency” as used in this section means only  
11 the state and any agency of the state and a city, a county, and a  
12 city and county.

13 SEC. 3. Section 118505 of the Health and Safety Code is  
14 amended to read:

15 118505. (a) Publicly and privately owned facilities where the  
16 public congregates shall be equipped with sufficient temporary or  
17 permanent restrooms to meet the needs of the public at peak hours.  
18 Each toilet stall shall contain a waste ~~receptacle~~. *receptacle, unless*  
19 *the addition of a waste receptacle in the toilet stall would result*  
20 *in noncompliance with a local, state, or federal law relating to*  
21 *access for persons with disabilities, as determined by the local*  
22 *health officer.*

23 (b) In conformity with the State Plumbing Code, and except as  
24 otherwise provided in this section, standards shall be adopted in  
25 order to enforce this section, as follows:

26 (1) The California Building Standards Commission shall adopt  
27 standards with respect to all state-owned or state-occupied facilities  
28 where the public congregates and over which it has jurisdiction  
29 pursuant to Section 18934.5.

30 (2) The Office of the State Architect shall adopt standards with  
31 respect to all facilities where the public congregates and that are  
32 not covered by paragraph (1), unless exempt from coverage  
33 pursuant to this section.

34 (c) The standards adopted pursuant to subdivision (b) shall be  
35 published in the California Building Standards Code contained in  
36 Title 24 of the California Code of Regulations.

37 (d) This section shall apply to facilities where the public  
38 congregates that commence construction, or that undertake  
39 structural alterations, repairs, or improvements exceeding 50  
40 percent of the entire facility, on or after January 1, 1989.

1 (e) (1) For the purposes of this section, “facilities where the  
2 public congregates” means sports and entertainment arenas,  
3 stadiums, community and convention halls, specialty event centers,  
4 amusement facilities, and ski resorts.

5 (2) For purposes of this section, “facilities where the public  
6 congregates” also means specialty event centers in public parks.

7 (f) This section shall not apply to the following:

8 (1) A hotel. For purposes of this section, “hotel” means an  
9 establishment in which there exists the relationship of guests and  
10 innkeeper between the occupants and the owner or operator of the  
11 establishment. The existence of some other legal relationship  
12 between the occupants and owner or operator shall be immaterial.

13 (2) A restaurant or food facility, as defined in Section 113789.

14 (3) A public or private elementary or secondary school facility.

15 (4) A qualified historic building, defined as qualifying under  
16 provisions in the California Historical Building Code contained  
17 in Part 8 (commencing with Section 8-101.1) of Title 24 of the  
18 California Code of Regulations.

19 (g) It is the intent of the Legislature that, in order to ensure that  
20 standards are both viable and efficacious, the Office of the State  
21 Architect and the California Building Standards Commission hold  
22 a series of public meetings with representatives of affected  
23 industries and state and local agencies prior to adopting standards  
24 under this section.

25 SEC. 4. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution for certain  
27 costs that may be incurred by a local agency or school district  
28 because, in that regard, this act creates a new crime or infraction,  
29 eliminates a crime or infraction, or changes the penalty for a crime  
30 or infraction, within the meaning of Section 17556 of the  
31 Government Code, or changes the definition of a crime within the  
32 meaning of Section 6 of Article XIII B of the California  
33 Constitution.

34 However, if the Commission on State Mandates determines that  
35 this act contains other costs mandated by the state, reimbursement  
36 to local agencies and school districts for those costs shall be made  
37 pursuant to Part 7 (commencing with Section 17500) of Division  
38 4 of Title 2 of the Government Code.

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